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offer that service except at a loss. Access further contends that Ameritech Illinois has refused to consider its requests for additional discounts. Access suggests that Ameritech's pricing policies therefore do not satisfy the Act. Access Brief at 5-6.

AT&T

AT&T suggests that Ameritech's resale offering is inadequate because it does not offer Service Transport Facilities ("STF") on a wholesale basis, such that resellers must purchase them a "pair at a time." AT&T Ex. 2.0 at 34. AT&T also maintains that Ameritech fails to provide resellers with adequate notice of new services. AT&T further objects to Ameritech's requirement that it make a special request if it wishes to combine Ameritech's unbundled local switching element with its own operator services or directory assistance. AT&T Ex. 5.0 at 32.

In its brief, AT&T contends that Ameritech wrongfully refuses (1) to provide customized routing of AT&T's customers' DA and OS calls to AT&T's DA and OS platforms in a resale environment and (2) to offer the unbundled network platform without OS and DA as a standard offering, except pursuant to the BFR process. Under the governing FCC rule, Ameritech must combine unbundled network elements in any manner that is technically feasible and would not impair other carriers' ability to obtain access to UNEs or to interconnect. 47 C.F.R. § 51.315(c). AT&T suggests that the provision of unbundled access to OS/DA satisfies these conditions in an unbundled network platform environment and a resale environment.

CompTel

Like AT&T, CompTel maintains in its direct testimony that the Act and federal rules contemplate that new providers of local service must have access to customized or selective routing of all categories of traffic. CompTel Ex. 1.0 at 21. Its witness Gillan maintains that it is impossible to tell from Ameritech's testimony, which indicates that new software may be necessary to satisfy this requirement, whether Ameritech Illinois intends to comply. CompTel Ex. 1.0 at 21.

MCI

In its brief, MCI contends that Ameritech cannot satisfy the FCC requirement that it provide nondiscriminatory access to OS/DA because the record shows that Ameritech cannot unbundle its operator services and directory assistance from its total resale offering to enable a reseller to route its OS/DA traffic to itself, to a third party, or to Ameritech.. MCI Brief at 18 (citing FCC's Second Report and Order, ¶ 101).

As to Ameritech's resale offering generally, MCI argues in its brief that the negotiated contracts merely reference the applicable tariffs, which fail to comply with the requirements of the Commission's Wholesale Order. MCI Brief at 21 (citing Staff Ex. 4.02 at 5; Tr. 1592-95). Citing the testimony of Staff witness Jennings, MCI suggests that Ameritech's resale tariff fails to provide the required treatment of branding and unbundling of OS/DA from wholesale services. MCI Brief at 21 (citing Staff Ex. 4.02 at 6-8).

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In the direct phase of this proceeding, Staff testified that it disagrees with Ameritech's position that its resale tariff complies with Section 251(c)(4) and the FCC's Order. However, during the rebuttal phase, Staff witness Jennings offered further testimony and suggested four areas where the November 20 tariff did not comply with the Commission's Resale Order: (a) branding and unbundling of operator and directory assistance from wholesale services; (b) Mirroring of Retail Tariff for term commitments of Priority and Priority Plus rate elements; (c) PBX and Centrex trunks; and the fact that Busy Line Verify and Busy Line Interrupt were excluded. Staff Ex. 4.02 at 5. On cross examination, He further testified that Ameritech had updated its resale tariff regarding the sections governing priority and priority-plus, PBX-Centrex, key line, busy line, and busy line interrupt. He further testified that those revisions were consistent with the Commission's Resale Order. Tr. 1592-93.

Staff delineates at length the statutory and regulatory provisions governing Ameritech's resale offering. Staff Brief at 97-98. It proposes that the Commission's Resale Order is consistent with Section 252(d)(3), observing that the Commission specifically addressed the issue of wholesale pricing in the Resale Order. Staff also notes that the FCC approvingly mentioned the Commission's TSLRIC cost studies in its Order. Staff Brief at 100 (citing FCC Order, ¶ 915). It is also noted that the CCT, MFS, and TCG agreements allow resale of services obtained at wholesale rates. Ameritech Illinois is furnishing wholesale services to MFS, but not to CCT or TCG. Staff Brief at 101 (citing Ameritech Ex. 2.2, Schedule 1, at 19). CCT has one resale customer, to which it provides resold Centrex. Because Ameritech is not furnishing wholesale services to CCT, Staff recommends that the Commission find that Ameritech is not complying with the Section 271(c) requirements for its resale offering.

Ameritech

Ameritech witness Gebhardt testified that all of its telecommunications services that are available at retail are also available for resale at wholesale rates to competing carriers. Ameritech Ex. 2.0 at 46-47.

Ameritech argues that its wholesale/resale offerings comply with this Commission's Wholesale Order in Docket No. 95-0458/0531, with Sections 251(c)(4) and 252(d)(B), and, therefore, with the competitive checklist. Section 251(c)(4) imposes upon Ameritech a duty to make available for resale at wholesale rates any telecommunications services that it makes available to its own customers and to do so on a nondiscriminatory basis, and Section 252(d)(3) provides that the Commission shall determine wholesale rates on the basis of retail rates charged to the subscriber less avoided costs. In the Wholesale Order in Docket 95-0458/0531, we comprehensively addressed the pricing requirement under Section 252(d)(3) and adopted a pricing methodology. MCI Arbitration Decision, Docket 96-AB-006, at 45; First Report and Order, ¶¶ 878-935. Ameritech notes that the FCC subsequently found that the Commission's methodology conformed with the Act. Thus, Ameritech takes the position that, to the extent that it has complied with the mandate of the Wholesale Order, it also has complied with Section 252(d)(4) and the competitive checklist. Section 271(c)(2)(B)(xiv). Ameritech has filed tariffs in conformity with the Wholesale Order in ICC No. (for competitive services) and in ICC No. 20 (for noncompetitive services). Moreover, Ameritech Illinois argues that it is currently furnishing resold service at

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wholesale rates to MFS, pursuant to the parties' interconnection agreement, and that such services are available for purchase pursuant to the tariffs cited above. Thus, Ameritech urges the Commission to find that it has satisfied this element of the checklist.

Concerning Access' complaint that Ameritech is hampering competition by reselling services at a wholesale discount level that averages 17.5% overall and 7.3% for trunk terminations, Ameritech answers that Access has provided no legal basis for disputing the level of the discount. Access does not allege that Ameritech Illinois has miscalculated the avoided costs of offering wholesale services generally or of offering DID trunks in particular. Nor has Access proffered any evidence to support its claim that competition will be inhibited by legally prescribed discount levels. With respect to Access' complaint that Ameritech has refused to negotiate further discounts, the Company responds that there is no legal or factual basis for that claim.

Regarding AT&T's contention that Ameritech's retail/wholesale offering is inadequate because it does not offer service transport facilities ("STF") on a wholesale basis, Ameritech notes that it has revised its retail tariff to include STF services on a wholesale basis. Ameritech Ex. 1.1 at 42. With respect to AT&T's complaint that Ameritech fails to provide resellers with adequate notice of new services, Ameritech notes that it has agreed to a 45-day advance notice provision with AT&T and to make advance notice available to other resellers as well. Ameritech Ex. 1.1 at 45. Thus, the Company contends that it has satisfactorily addressed these issues.

With respect to the issue of selective routing of OS/DA traffic, Ameritech states that it will provide selective routing through the use of line class codes. The Company asserts, however, that it takes far fewer line class codes (as few as one) to provision selective routing in the ULS context than to provision selective routing in the resale context. As a result of AT&T's BFR requesting selective routing, Ameritech Illinois has determined that selective routing, when requested in the context of ULS, is technically feasible in existing Ameritech switches. Thus, Ameritech no longer will require purchasers of ULS that request selective routing of OS/DA traffic to their own OS/DA platform (or the platform of another provider) to submit a BFR when such requests are "normal" in scope and require no more than 25 line class codes to fulfill; such selective routing will be offered on a standard tariff basis. Under this proposed arrangement, Ameritech will unbundle and custom route OS/DA traffic to specified trunk ports for the purpose of either (1) routing the traffic to the OS/DA platform of another provider or (2) routing traffic over separate trunks to the Ameritech Illinois OS/DA platform so that the traffic can be unbranded or rebranded with the name of the requesting carrier. Ameritech Illinois suggests that this should address AT&T's concern that its major market entry strategy will involve the purchase of network elements/ULS in conjunction with selective routing to AT&T's OS/DA platform.

However, with respect to AT&T's position that Ameritech should be required to provide selective routing of OS/DA in a resale environment, Ameritech contends that the uncontroverted record evidence establishes that 400 to 700 line class codes are required per carrier/per switch when a carrier wishes to resell Ameritech's services in conjunction with the selective routing of OS/DA traffic to a separate platform. In Ameritech's view, AT&T's position is based on speculation that Ameritech will not need to replicate all line class codes used by all customers in a resale environment, because resellers will request to sell less than all of Ameritech's services. Ameritech suggests that this claim, in addition to being unsupported, contradicts AT&T's testimony that it intends to offer every service that Ameritech offers (AT&T Ex. Supp. 3.2, p. 2 of 1-7-97 letter). Because Ameritech requires 400 to 700 line class codes per switch in the context of selective

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routing and resale, however, Ameritech faces a very real possibility of exhausting the available line class codes in any given switch. It is urged that this is plainly an issue of technical feasibility under 47 C.F.R. ¶ 51.5.

Finally, as to AT&T's claim that Ameritech can also use "AIN" technology to perform customized routing, Ameritech Illinois responds that the Commission already has addressed the issue of access to AIN triggers, finding that in light of network reliability concerns, the issue needs further investigation in an appropriate national forum.

Commission Conclusion

We find that Ameritech has established that all of its telecommunications services that are available at retail are also available for resale at wholesale rates to competing carriers. Ameritech makes available OS/DA with its resold services and with its unbundled local switching service. Ameritech Illinois also offers to unbundle OS/DA services from its unbundled local switching service. Further, it offers to unbundle OS/DA services from its resale offering and to rebrand such services where they are purchased by carriers in conjunction with other resold services to the extent technically feasible. Ameritech Ex. 2.0 at 46-47.

These wholesale/resale offerings comply with our Wholesale Order in Docket 95-0458/0531, with Sections 251(c)(4) and 252(d)(B), and, therefore, with the competitive checklist. In the Wholesale/Resale Order, comprehensively addressed the pricing requirement under Section 252(d)(3) and adopted a pricing methodology. MCI Arbitration Decision, Docket 96-AB-006, at 45; First Report and Order, ¶¶ 878-935. The FCC subsequently found that the Commission's methodology conformed with the Act. Thus, just as Ameritech has also complied with the mandate of the Wholesale/Resale Order, it has also complied with Section 252(d)(4) and the competitive checklist. Section 271(c)(2)(B)(xiv). Ameritech has filed tariffs in conformity with the Wholesale Order in ICC No. (for competitive services) and in ICC No. 20 (for noncompetitive services). Although Access has challenged the wholesale rates, we agree with Ameritech that Access has provided no legal basis for disputing the level of the discount. Access has presented no evidence that Ameritech Illinois has miscalculated the avoided costs of offering wholesale services, nor has Access proffered evidence to support its claim that competition will be inhibited by the discount levels we have prescribed. Thus, with respect to Access' complaint that Ameritech has refused to negotiate further discounts, there is no legal or factual basis for that claim. Ameritech also established that it currently is furnishing resold service at wholesale rates to MFS, pursuant to the parties' interconnection agreement, and that such services are available for purchase pursuant to the tariffs cited above. Thus, Ameritech has satisfied this element of the checklist.

AT&T's contention that Ameritech's retail/wholesale offering is inadequate because it does not offer service transport facilities ("STF") on a wholesale basis is rendered moot by Ameritech's revision to its retail tariff adding STF services on a wholesale basis. Ameritech also has resolved AT&T's complaint that Ameritech fails to provide resellers with adequate notice of new services, by agreeing to a 45-day advance notice provision with AT&T, and to make advance notice available to other resellers as well. Finally, Ameritech has answered AT&T's complaint that it would not provide selective routing in the ULS environment. As a result of AT&T's BFR requesting selective routing, Ameritech has determined that selective routing, when requested in the context of ULS, is technically feasible in existing Ameritech switches. Thus, Ameritech no longer will require ULS purchasers that request selective routing of OS/DA traffic to their own OS/DA

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platform (or the platform of another provider) to submit a BFR; such selective routing will be offered on a standard tariff basis when such requests fall within the normal scope of requiring the use of no more than 25 line class codes. This should allay AT&T's fears that its major market entry strategy will be impeded by an inability to purchase network elements/ULS in conjunction with selective routing to AT&T's OS/DA platform. We agree with Ameritech, however, that the record establishes that 400 to 700 line class codes are required per carrier/per switch when a carrier wishes to resell Ameritech's services in conjunction with the selective routing of OS/DA traffic to a separate platform. Accordingly, Ameritech's position of responding to requests for selective routing in the resale context on a case-by-case basis is entirely reasonable. We also reject AT&T's claim that Ameritech presently can use "AIN" technology to perform customized routing. We already have addressed the issue and found that, in light of network reliability concerns, the issue needs further investigation in an appropriate national forum.

VI. MISCELLANEOUS ISSUES**A. Performance Monitoring and Reporting****Positions of the Parties**

AT&T argues for the establishment of a detailed set of performance measurements that purportedly would serve to monitor Ameritech's checklist compliance. AT&T Ex. 3.0 at 8-13; AT&T Ex. 3.1 at 5-29, Attach. I-III; AT&T Brief at 40. In response, Ameritech asserts that this is not the proper proceeding for addressing these issues, and that these issues have already been addressed in the negotiations and arbitrations between Ameritech Illinois and AT&T. Ameritech observes that the Commission has previously addressed the issue of what performance monitoring reporting procedures should be included in Ameritech Illinois' interconnection agreements on at least two occasions. Ameritech Brief at 111-12; AT&T Arbitration Decision, at 11-14, 30-31, 37-38, 46-47; MCI Arbitration Decision, at 56-62. Ameritech Illinois also argues that even if this were an appropriate forum for addressing AT&T's proposals, those proposals should be rejected on the merits for the reasons expressed in the above arbitration decisions, and the reasons stated by Mr. Mickens in this proceeding. AI Brief at 112-13 (citing Tr. 1313-49).

Commission Conclusion

The Commission agrees with Ameritech that this is not the proper proceeding for resolving these issues. These issues already have been addressed in negotiations between the parties and in the AT&T and MCI arbitrations. Moreover, even assuming AT&T's proposals were properly raised in this proceeding, we find that they lack merit and should be rejected.

VII. FINDINGS AND CONCLUDING PARAGRAPHS

Based on the entire record in this proceeding and being fully advised in the premises, the Commission is of the opinion and finds that:

- 1) the Commission initiated this proceeding to investigate and gather information regarding Ameritech Illinois' compliance with the "competitive checklist"

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requirements of Section 271(c) of the federal Telecommunications Act of 1996, in order to fulfill our consulting role with the FCC under Section 271(d)(2)(B) of the Act;

- 2) while our investigation is primarily factual in nature, the parties to this proceeding and Staff have raised a number of legal issues in this proceeding regarding the proper interpretation of Section 271(c); although these issues are ultimately within the FCC's domain, and not ours, we cannot avoid addressing certain of these legal issues even if our conclusions on these issues are not binding;
- 3) Ameritech has negotiated and executed, and we have approved, a binding interconnection agreement with CCT; CCT is not affiliated with Ameritech and is a competing provider of telephone exchange service to residential and business subscribers in Illinois; CCT offers such service either exclusively or predominantly over its own telephone exchange service facilities;
- 4) the Commission finds that the phrase "is providing", as used in Section 271(c)(1)(A) of the Act, should be interpreted to mean "actually furnishing" or "making available" pursuant to the standards set forth herein;
- 5) Applying this interpretation of the phrase "is providing" to the record facts, Ameritech, through its interconnection agreement with CCT, has not complied with the requirements for each of the "competitive checklist" items set forth in Section 271(c)(2)(B);
- 6) Based on the above findings and our interpretation of the phrase "is providing", Ameritech has not satisfied certain of the requirements of Sections 271(c)(1)(A) and 271(c)(2)(A);
- 7) that the findings of fact and conclusions of law set forth in the prefatory portion of this Order are hereby adopted as findings of fact and conclusions of law;
- 8) any outstanding motions are hereby disposed of in a manner consistent with this Order.

IT IS THEREFORE ORDERED that this Commission recommends to the FCC that Ameritech Illinois has not complied with the competitive checklist requirements of Section 271(c)(2)(B) of the Act.

IT IS FURTHER ORDERED that this Commission should recommend to the FCC that Ameritech Illinois has not met the requirements of Sections 271(c)(1) and 271(c)(2)(A) of the Act.

IT IS FURTHER ORDERED that this Commission may at any time hereafter reexamine the issues investigated herein.

ORDER DATED:
BRIEFS ON EXCEPTIONS DUE:
REPLY BRIEFS ON EXCEPTIONS DUE:

March 6, 1997
March 14, 1997
March 21, 1997

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STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION

March 21, 1997

ILLINOIS COMMERCE COMMISSION
On Its Own Motion

Investigation concerning Illinois Bell
Telephone Company's compliance with
Section 271(c) of the Telecommunications
Act of 1996.

:
:
: 96-0404

del

NOTICE OF HEARING EXAMINER'S RULING
AND
NOTICE OF SCHEDULE

TO ALL PARTIES OF INTEREST:

Notice is hereby given that the Hearing Examiner makes the following ruling with respect to Ameritech's Motion to Suspend the Schedule for Exceptions and Establish Procedures for the taking of Additional Evidence:

The parties, if they so choose, may supplement the record with new or updated information with respect to any of the checklist items in accordance with the following schedule. Any supplement or update shall either relate to new or previously unavailable information. Cumulative evidence will be stricken.

Notice is also given of the following schedule:

April 4, 1997	Supplemental Direct Testimony (Illinois Bell)
April 18, 1997	Supplemental Direct Testimony (Staff and Intervenors)
May 2, 1997	Supplemental Rebuttal Testimony (Illinois Bell)
May 6 - 7, 1997	Cross Examination of Supplemental Testimony
May 14, 1997	Supplemental Initial Briefs
May 21, 1997	Supplemental Reply Briefs

Sincerely,

Donna M. Caton
Chief Clerk

cfr

Hearing Examiner: Mr. Guerra

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Service List - 96-0404

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Service List - 96-0404
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* Active Parties

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F



Public Service Commission of Wisconsin

Cheryl L. Parrino, Chairman
Daniel J. Eastman, Commissioner
Joseph P. Mettner, Commissioner

610 North Whitney Way
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Madison, WI 53707-7854

May 5, 1997

To the Docket Mailing List

Re: Matters Relating to Satisfaction of Conditions
for Offering InterLATA Service
(Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin)

6720-TI-120

Comments due: May 15, 1997, by 4:30 p.m.	Address Comments To: Barbara E. James, Chief Examiner Examining Division Public Service Commission P.O. Box 7854 Madison, WI 53707-7854 FAX: (608) 266-3957
Fax filing date: May 14, 1997	

Staff was directed by the Commission at its April 15, 1997, open meeting to circulate a staff draft order for comment in lieu of reply comments regarding Ameritech's Statement of Generally Available Terms and Conditions (Statement) and post-hearing briefing. Attached is the staff **draft** order rejecting the Statement, filed on March 3, 1997. Any interested docket participants on the attached mailing list (which includes all parties on the docket service list) are invited to file comments on the contents of the draft order according to the above schedule.

The following instructions apply to those wishing to comment. An original and 15 copies of comments should be addressed and filed as noted in the box above and must refer to docket 6720-TI-120. Filings by fax are due one day earlier to allow for copying. Fax filing cover sheets must state "Official Filing," the docket number, and the number of pages (limit 20 pages). File by one mode only. A copy must also be served on all parties on the attached docket mailing list.

Should you have questions on this procedure, please contact me at (608) 266-1567, or Jeff Richter, Case Coordinator, at (608) 267-9624.

Sincerely,

Scot Cullen, P.E.
Administrator
Telecommunications Division

JJR:lep:h:\ss\letter\6720-TI-120 draft order cover

Attachments

cc: Records Management/Mail
Lynda Dorr, PSC/CO
Barbara E. James, PSC/EXAM

TAB E-1

CC: AKB
Gene
Rocky
Dwy
Pam
June

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Matters Relating to Satisfaction of
Conditions for Offering InterLATA Service
(Wisconsin Bell, Inc. d/b/a Ameritech
Wisconsin)

6720-TI-120

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND SECOND ORDER**

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DISCUSSION

Background

On October 16, 1996, Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin (Ameritech), filed a Statement of Generally Available Terms (Statement) under § 252(f) of the Telecommunications Act of 1996 (the Act) in anticipation of a Track B approach to requesting authority to provide in-region, originating interLATA service in Wisconsin as provided in § 271(c)(1) of the Act. The Public Service Commission (Commission) opened this proceeding by issuing a Notice of Investigation, Request for Comments, Technical Conference, and Assessment of costs on October 17, 1996. Under § 252(f) of the Act, the Commission had 60 days to complete its review of the Statement, including any reconsideration thereof, unless the submitting carrier agreed to an extension of the period for review. If the review was not completed within the 60-day or extended time frame, the Statement would have been permitted to take effect.

Ameritech filed its wholesale and unbundled services tariffs, in response to the requirement in the Order in docket 05-TI-138, on August 19, 1996. The Federal Communications Commission (FCC) issued its Interconnection Order on August 8, 1996. Given the timing of its initial filing, Ameritech was unable to incorporate in the original filing compliance with the FCC order. In order to make changes to achieve that end, Ameritech refiled its wholesale and unbundled services tariffs, together with its Statement of Generally Available Terms and Conditions, on October 16, 1996. The Eighth Circuit Court temporarily stayed large portions of the FCC Interconnection order on September 27, 1996, and made that stay permanent on October 15, 1996, pending the outcome of the court's review.

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The Commission issued an order in this docket, dated December 12, 1996 (first order), that found many deficiencies in Ameritech's proposed Statement of Generally Available Terms and Conditions (Statement). That first order provided Ameritech the option of refileing its Statement and tariffs, including adequate support, in accordance with the changes identified in the findings of fact to avoid disapproval of the Statement. In addition, the order required that Ameritech notify the Commission in writing, by December 13, 1996, of its intention to refile and to grant sufficient extension of the Commission's 60-day review period, specified by § 271 of the Telecommunications Act of 1996 (the Act), to assure compliance with the changes required.

Ameritech's Statement filed March 3, 1997, with revisions through March 26, 1997, and all previous versions of Ameritech's Statement are rejected. Items for which some deficiencies or outstanding concerns are identified are: Interfacing with Operations Support Systems. OSS change management system. Collocation of remote switches. Shared transport. Dark fiber. Performance benchmarks and parity reports. Pricing of unbundled ports and Treatment of access revenues for purchasers of unbundled services. In addition, Ameritech must submit to the Commission proposed tariff revisions to meet requirements identified in the Ultimate Findings of Fact and all the items contained in the Threshold to Refile (Appendix B) at least 14 days prior to filing another statement

FINDINGS OF FACT

THE COMMISSION FINDS:

On December 13, 1996, Ameritech notified the Commission in writing of its intention to refile and extended the time period for review. Ameritech refiled its Statement on January 10,

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1997, along with revisions to its tariffs. The Commission issued a second notice on January 16, 1997, requesting comments on Ameritech's compliance filing and issues related to a possible filing by Ameritech for authority to provide in-region interLATA service pursuant to § 271. In this Second Notice and Request for Comments, the Commission made clear that these tariff revisions will not become effective until they are reviewed and found in compliance with the first order. It also requested comments on several issues in the first order which the Commission identified as relevant but not fully explored. Those issues were: Collocation of remote switching modules; Availability of dark fiber; Shared interoffice transport; Recognition of the provider of exchange access; Provision of customized routing; Restriction of use for terminating services; Availability of vertical features; the Usage development and implementation charge and the Viability of Ameritech's offering. Comments were due at the Commission and to docket participants by January 27, 1997.

Commission staff developed a memo to summarize the results of its investigation and sent it via courier for receipt by participants in this docket on February 7, 1997. A third request for comments was issued requesting participants to provide comments on the memo by February 4, 1997. The Commission made its oral decision on the issues in the memo at its February 20, 1997, open meeting. This second filing of Ameritech's Statement was found by the Commission to be deficient and it was conditionally rejected; the Commission again allowed an opportunity for Ameritech to refile in compliance with the Commission's determinations. The findings and conclusions of the February 20, 1997, open meeting were not formalized in a written order but are presented in this order.

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As part of the February 20, 1997, decision, the Commission determined it would need additional information in order to be prepared to provide advice to the Federal Communications Commission (FCC) as is a function of state commissions under § 271. The Commission severed eight issues and set them for hearing beginning March 31, 1997. A fourth notice announcing the hearing was issued February 28, 1997. That notice stated that an additional issue may be added to the hearing; namely the issue of whether or not the Ameritech Operations Support Systems (OSS) and electronic data interchange (EDI) interfaces were "tested and operational" in compliance with the Commission's first order.

Those eight issues were as follow and will be addressed in this order in the places noted below.

1. Whether the equipment that can be collocated in Ameritech central offices should be limited to multiplexing and line concentration equipment, or whether competitors should be allowed to collocate switching equipment. - (*Addressed in vi. Unbundled Local Switching, issue 5*)
2. The circumstances under which access charges accrue to Ameritech, and under what circumstances they accrue to the new entrant, if the new entrant is purchasing unbundled local loops and unbundled local switching. (A staff white paper, attached to the notice, provided some details on these issues.) Testimony also addressed calls routed over shared transport, special cases such as 800/WATS service, and whether the call detail provided with unbundled local switching is sufficient to allow competitors to bill access charges. (*Addressed in vi. Unbundled Local Switching, issue 6*)
3. The cost support and reasonableness of Ameritech's Usage Development and Implementation Charge. Note that this was the only cost study on which the Commission had not already ruled. (*Addressed in vi. Unbundled Local Switching, issue 7*)
4. The viability of Ameritech's unbundled service offerings. Discussion of this issue is limited to discussion of viability of the rates already approved by the Commission. The Commission did not intend this issue to be used to reopen the cost studies used to price unbundled services. (*Not addressed in this order, will be addressed after Ameritech files a future Statement in compliance with the requirements herein.*)

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5. The extent and completeness of performance benchmarks and parity reports to be provided by Ameritech. *(Not addressed in this order, will be addressed after Ameritech files a future Statement in compliance with the requirements herein.)*

6. The procedures under which Ameritech will modify its Operational Support Systems interface, the procedures for notifying users of impending changes in the interface, and the extent to which users will have input into the modification process. *(Addressed in ii. Nondiscriminatory Access to Unbundled Elements, issue 2)*

7. Other factual issues related to a potential filing by Ameritech for interLATA relief under § 271, such as the extent to which competitors are serving residential customers. (Legal issues regarding the Track A/Track B question, such as the meaning of "predominantly," were not included in testimony.) *(Not addressed in this order; will be addressed after Ameritech files a future Statement in compliance with the requirements herein.)*

8. The criteria the Commission should use when advising the FCC on whether the Ameritech filing is "in the public interest." *(Not addressed in this order; will be addressed after Ameritech files a future Statement in compliance with the requirements herein.)*

Ameritech refiled its Statement on March 3, 1997. That third filing was incomplete. The filing was supplemented with subsequent tariff filings, the last of which was submitted March 26, 1997. The Commission issued a Fifth Notice and Request for Comments, which was mailed on March 28, 1997. In this Notice, the Commission made clear that these tariff revisions would not become effective until they are reviewed and found in compliance with the December 12, 1996, order and its oral decision given at its February 20, 1997, open meeting. Comments were due to the Commission by April 9, 1997.

An amended notice of hearing was issued on March 10, 1997, via facsimile to the parties, adding the issue of whether or not Ameritech OSS interfaces are tested and operational for hearing. This OSS issue and issue number six were heard on March 31, 1997, and April 1, 1997. All three Commissioners were present for this hearing. The Commissioners heard oral argument

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on the OSS issues on April 2, 1997, and delivered their oral decision on April 3, 1997. The results of that oral decision are reflected in this order.

For the issues addressed in this order, including all but issues 7 & 8 of the issues addressed at hearing on April 2 and 3, 1997, staff was directed to draft a proposed order and circulate it for comment by the parties in lieu of reply comments or briefs. The Commission reviewed the draft order, hearing record, and comments, and its decisions are reflected in this second order.

The notices in this docket stated the Commission did not intend for the tariffs submitted pursuant to its first order, and subsequent decisions in this docket, to go into effect until another order was issued. Nevertheless, standard tariff filing processes were used to handle these tariff submissions and they were placed on file. Ameritech thus has allowed some customers to purchase off these revised tariffs. Allowing customers to purchase from these tariffs does not appear to have harmed any customer. During the compliance process, Ameritech has issued revised tariffs that have, over time, come closer and closer to what is required under the 1996 Telecommunications Act. The rates, terms and conditions in each subsequent tariff became more advantageous to the CLECs, so they benefited from the processing error. No corrective action is required or desirable to address these benign mistakes. What is now clear from this order, however, is that not all tariffs on file are in compliance with the Commission's order and further decisions in this docket.

Ameritech's tariffs as filed in association with its Statement have been reviewed and, other than where specific tariff deficiencies are identified, the tariffs on file have been found to be in compliance with this Commission's first order and its February 20, 1997, oral decision.

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Except where a deficiency or outstanding concern for review is specifically identified in this order, the tariffs submitted March 3, 1997, under Amendment No. 4287 (which contains a complete set of the resale, unbundling, interconnection and pole attachment tariffs at that time) and revised through Amendment Nos. 4298, 4302, 4303, 4310, and 4311, are in compliance and acceptable as the basis for filing another Statement.

Section 271 Issues of the Telecommunications Act of 1996

The Telecommunications Act of 1996 (the Act) states that Ameritech Wisconsin (Ameritech) may not offer in-region interLATA services in Wisconsin except as provided in § 271(c)(1) of the Act. Specifically, § 271(d) allows Ameritech to apply to the Federal Communications Commission (FCC) at any time for authority to provide in-region, originating interLATA service in Wisconsin. The FCC must issue its decision on such an application within 90 days.

The balancing factor under the Act for Ameritech's entry into in-region interLATA service is for Ameritech to open access to its network and services to allow competitors to provide service in its local exchange service territory. Under § 271(c)(1), Ameritech has two means of qualifying to provide interLATA service, generally referred to as Track A and Track B. Track A relies on the presence of a facilities-based competitor providing local service to residential and business customers predominantly over its own facilities under the terms of a Commission-approved interconnection agreement. Track B relies on the availability of interconnection under a statement of generally available terms and conditions (Statement) for interconnection.

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Track B requires that access and interconnection offered pursuant to a Statement must meet the requirements of § 271(c)(2)(B); the competitive checklist (Checklist). The Checklist has 14 items which are: (i) local carrier interconnection, (ii) nondiscriminatory access to network elements, (iii) nondiscriminatory access to poles, ducts, conduits, and rights-of-way, (iv) unbundled local loop transmission, (v) unbundled local transport, (vi) unbundled local switching, (vii) nondiscriminatory access to 9-1-1, directory assistance and operator services, (viii) white pages listings, (ix) nondiscriminatory access to telephone numbers, (x) nondiscriminatory access to databases and signalling for call routing, (xi) interim number portability, (xii) access to services and information to implement local dialing parity, (xiii) reciprocal compensation arrangements, and (xiv) telecommunications services available for resale.

The Commission may not approve Ameritech's Statement unless it complies with § 252(d) pricing standards, § 251 interconnection standards, and non-conflicting state requirements. As required by the Act, rules were promulgated by the FCC in its Interconnection Order in CC Docket 96-98 to set the § 251 interconnection standards and the § 252(d) pricing standards. The U.S. Court of Appeals for the 8th Circuit stayed the operation and effect of the pricing provisions and the "pick and choose" rule pending its final determination of the issues raised by the pending petitions for judicial review of the FCC Interconnection order. Notwithstanding the stay, it is the option of this Commission to consider the decisions of the FCC in its deliberations for this review of pricing, terms and conditions for local competition under the Act. Therefore, in this investigation, the Commission has given due weight to the provisions of the Interconnection Order, without regard to any position this Commission may argue regarding judicial review of that Order. As allowed by § 252(f)(2), this state review of

TAB 9 F-10

Ameritech's Statement was also based on the order of this Commission, dated July 3, 1996, in docket 05-TI-138, that set standards for local exchange service competition in Wisconsin.

The FCC, pursuant to § 271(d)(2)(B), is required to consult with state commissions after a Bell operating company applies for authority to provide in-region, originating interLATA service. The FCC must issue its decision on such an application within 90 days. The Commission has in this docket also gathered information to share in consultation with the FCC pursuant to § 271(d)(2)(B). When performing in its consultative role to the FCC, this Commission will consider the additional analysis of future filings to comply with this order as well as any other investigations deemed necessary to fulfill its public interest responsibilities. In this consultation, the Commission will inform the FCC regarding whether or not it believes an application by Ameritech for in-region interLATA service should be granted by the FCC pursuant to § 271. The Commission in this order is not adding any conclusions regarding this future consultation to those stated in its first order in this docket.

In that first order the Commission determined that it found purpose in Ameritech seeking approval of its Statement and that it could not foreclose the option of pursuit of a Track B filing by Ameritech. It concluded that to successfully apply to the FCC per Track B, Ameritech will need to meet two conditions. The first condition is that "Track A" is not available. The second condition is that Ameritech must have filed a Statement which has been approved or allowed to take effect by this Commission.

The Commission in its first order recommends that the FCC not allow a Track B filing until competitors with interconnection agreements have had a reasonable opportunity to deploy facilities and begin serving customers. On the other hand, it is not reasonable to hold Ameritech

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hostage to the deployment schedule of its competitors, if those competitors choose to significantly delay deployment. The above examples demonstrate that a decision regarding whether Track A is required or Track B is allowed should be made on a case-by-case basis.

Whether this Commission will advise the FCC that a Track A or Track B filing is appropriate and whether that filing meets the 14 points of the competitive checklist will be determined, based on the specific circumstances at that time, when the FCC consults this Commission requesting that advice. This order provides direction to Ameritech for achieving approval of a Statement. Like the first order in this docket, this order does not represent the Commission's final advice to the FCC on other substantial issues regarding a request for interLATA service authority. Ultimately the advisory role of this Commission under § 271(d)(2)(B) will be based on all the information that it has when the FCC requests consultation.

Application of Wisconsin Law

In review of the Statement, this Commission is not precluded from establishing or enforcing other requirements of State law per § 252(e)(3) as long as such law is not in conflict with the intent of the Act. In the first order, the Commission addressed application of s. 196.19, Wis. Stats., requirement to file tariffs; ss. 196.204(5)(a) and (6)(d), Wis. Stats.; imputation requirement; and requirements of the order in the local competition docket, 05-TI-138. In this order the Commission also addressed application of s. 133.01, Wis. Stats., regarding its requirement to promote competition to the maximum extent possible.

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The Commission found it reasonable under state law to require:

- that all rates, terms and conditions must be included in tariffs in order to be considered generally available in Wisconsin.
- that parity reporting and performance benchmarks must be incorporated in tariffs
- that prices must pass an imputation test per ss. 196.204(5) and (6), Wis. Stats.
- a specific process in which technical and operational issues will be resolved.

Compliance Review

The following discussion is organized in order of the 14 points of the competitive Checklist per § 271(c)(2)(B) and under those points, according to the issues addressed in the first order. Each section begins with a quote in italics of the revisions or adjustments required by the first order in this docket.

Issues that were completely resolved with the first order are noted (in italics) as “No adjustment is required on this issue in the first order.” In addition, the discussion of unbundled transport and unbundled switching includes discussion of the issues the Commission added for further investigation in its first order in this docket. Any additional requirements added since the first order are presented and supported herein.

i. Local Carrier Interconnection

1. *All rates, terms, and conditions of interconnection must be included in tariffs.*

Ameritech's January 10, 1997, Statement did not include all rates, terms, and conditions of interconnection in tariffs. Ameritech's tariffs refiled on March 3, 1997, in support of its

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Statement, generally include all necessary rates, terms, and conditions in tariffs. Exceptions to this general finding are noted in this second order.

2. *Ameritech's offering must clearly state that indirect interconnection will be allowed.*

Ameritech's January 10, 1997, Statement included this offering, but it was not reflected in tariffs. Ameritech's filing of March 3, 1997, included this offering in tariffs.

3. *Ameritech's offering must be revised to include the explanation that disputes regarding technical and operational matters will be referred to the Commission staff for review. Staff is allowed to refer such an issue to the Technical Forum for advice before issuing a determination or presenting the matter to the Commission. Staff determinations may be appealed to the Commission.*

Ameritech's January 10, 1997, Statement included this offering, but it was not reflected in tariffs. Ameritech's filing of March 3, 1997, included this offering in tariffs.

4. *Ameritech's offering must state that two-way trunking will be available upon request for local interconnection.*

Ameritech's January 10, 1997, Statement included this offering, but it was not reflected in tariffs. Ameritech's filing of March 3, 1997, included this offering in tariffs.

5. *No adjustment is required on this issue in the first order..*

6. *No adjustment is required on this issue in the first order.*

7. *Ameritech's offering must be revised to make the implementation team an option available at the request of interconnecting companies.*

TAB F-14